

OMB No. 1124-0006; Expires May 31, 2020

U.S. Department of Justice

Washington, DC 20530

Exhibit A to Registration Statement**Pursuant to the Foreign Agents Registration Act of 1938, as amended**

INSTRUCTIONS. Furnish this exhibit for EACH foreign principal listed in an initial statement and for EACH additional foreign principal acquired subsequently. The filing of this document requires the payment of a filing fee as set forth in Rule (d)(1), 28 C.F.R. § 5.5(d)(1). Compliance is accomplished by filing an electronic Exhibit A form at <https://www.fara.gov>.

Privacy Act Statement. The filing of this document is required by the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.*, for the purposes of registration under the Act and public disclosure. Provision of the information requested is mandatory, and failure to provide this information is subject to the penalty and enforcement provisions established in Section 8 of the Act. Every registration statement, short form registration statement, supplemental statement, exhibit, amendment, copy of informational materials or other document or information filed with the Attorney General under this Act is a public record open to public examination, inspection and copying during the posted business hours of the Registration Unit in Washington, DC. Statements are also available online at the Registration Unit's webpage: <https://www.fara.gov>. One copy of every such document, other than informational materials, is automatically provided to the Secretary of State pursuant to Section 6(b) of the Act, and copies of any and all documents are routinely made available to other agencies, departments and Congress pursuant to Section 6(c) of the Act. The Attorney General also transmits a semi-annual report to Congress on the administration of the Act which lists the names of all agents registered under the Act and the foreign principals they represent. This report is available to the public in print and online at: <https://www.fara.gov>.

Public Reporting Burden. Public reporting burden for this collection of information is estimated to average .49 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Registration Unit, Counterintelligence and Export Control Section, National Security Division, U.S. Department of Justice, Washington, DC 20530; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

1. Name and Address of Registrant theGROUP DC, LLC 1730 Pennsylvania Ave. NW, Suite 500, Washington, DC 20006		2. Registration No. 6388
3. Name of Foreign Principal The Government of Bermuda	4. Principal Address of Foreign Principal 105 Front Street, Hamilton HM 12, Bermuda	
5. Indicate whether your foreign principal is one of the following:		
<input checked="" type="checkbox"/> Government of a foreign country ¹ <input type="checkbox"/> Foreign political party <input type="checkbox"/> Foreign or domestic organization: If either, check one of the following: <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Association </div> <div> <input type="checkbox"/> Committee <input type="checkbox"/> Voluntary group <input type="checkbox"/> Other (specify) _____ </div> </div> <input type="checkbox"/> Individual-State nationality _____		
6. If the foreign principal is a foreign government, state:		
a) Branch or agency represented by the registrant The Cabinet Office		
b) Name and title of official with whom registrant deals The Hon. E. David Burt, Premier of Bermuda		
7. If the foreign principal is a foreign political party, state:		
a) Principal address		
b) Name and title of official with whom registrant deals		
c) Principal aim		

¹ "Government of a foreign country," as defined in Section 1(e) of the Act, includes any person or group of persons exercising sovereign de facto or de jure political jurisdiction over any country, other than the United States, or over any part of such country, and includes any subdivision of any such group and any group or agency to which such sovereign de facto or de jure authority or functions are directly or indirectly delegated. Such term shall include any faction or body of insurgents within a country assuming to exercise governmental authority whether such faction or body of insurgents has or has not been recognized by the United States.

8. If the foreign principal is not a foreign government or a foreign political party:

a) State the nature of the business or activity of this foreign principal.

b) Is this foreign principal:

Supervised by a foreign government, foreign political party, or other foreign principal

Yes ☐ No ☐

Owned by a foreign government, foreign political party, or other foreign principal

Yes ☐ No ☐

Directed by a foreign government, foreign political party, or other foreign principal

Yes ☐ No ☐

Controlled by a foreign government, foreign political party, or other foreign principal

Yes ☐ No ☐

Financed by a foreign government, foreign political party, or other foreign principal

Yes ☐ No ☐

Subsidized in part by a foreign government, foreign political party, or other foreign principal

Yes ☐ No ☐

9. Explain fully all items answered "Yes" in Item 8(b). (If additional space is needed, a full insert page must be used.)

10. If the foreign principal is an organization and is not owned or controlled by a foreign government, foreign political party or other foreign principal, state who owns and controls it.

EXECUTION

In accordance with 28 U.S.C. § 1746, the undersigned swears or affirms under penalty of perjury that he/she has read the information set forth in this Exhibit A to the registration statement and that he/she is familiar with the contents thereof and that such contents are in their entirety true and accurate to the best of his/her knowledge and belief.

Date of Exhibit A November 02, 2017	Name and Title Arthur Collins, Managing Partner	Signature /s/ Arthur R. Collins	eSigned
---	--	------------------------------------	---------

OMB No. 1124-0004; Expires May 31, 2020

U.S. Department of Justice
Washington, DC 20530

**Exhibit B to Registration Statement
Pursuant to the Foreign Agents Registration Act of
1938, as amended**

INSTRUCTIONS. A registrant must furnish as an Exhibit B copies of each written agreement and the terms and conditions of each oral agreement with his foreign principal, including all modifications of such agreements, or, where no contract exists, a full statement of all the circumstances by reason of which the registrant is acting as an agent of a foreign principal. Compliance is accomplished by filing an electronic Exhibit B form at <https://www.fara.gov>.

Privacy Act Statement. The filing of this document is required for the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.*, for the purposes of registration under the Act and public disclosure. Provision of the information requested is mandatory, and failure to provide the information is subject to the penalty and enforcement provisions established in Section 8 of the Act. Every registration statement, short form registration statement, supplemental statement, exhibit, amendment, copy of informational materials or other document or information filed with the Attorney General under this Act is a public record open to public examination, inspection and copying during the posted business hours of the Registration Unit in Washington, DC. Statements are also available online at the Registration Unit's webpage: <https://www.fara.gov>. One copy of every such document, other than informational materials, is automatically provided to the Secretary of State pursuant to Section 6(b) of the Act, and copies of any and all documents are routinely made available to other agencies, departments and Congress pursuant to Section 6(c) of the Act. The Attorney General also transmits a semi-annual report to Congress on the administration of the Act which lists the names of all agents registered under the Act and the foreign principals they represent. This report is available to the public in print and online at: <https://www.fara.gov>.

Public Reporting Burden. Public reporting burden for this collection of information is estimated to average .33 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Registration Unit, Counterintelligence and Export Control Section, National Security Division, U.S. Department of Justice, Washington, DC 20530; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

1. Name of Registrant

theGROUP DC, LLC

2. Registration No.

6388

3. Name of Foreign Principal

The Government of Bermuda

Check Appropriate Box:

4. ☒ The agreement between the registrant and the above-named foreign principal is a formal written contract. If this box is checked, attach a copy of the contract to this exhibit.
5. ☐ There is no formal written contract between the registrant and the foreign principal. The agreement with the above-named foreign principal has resulted from an exchange of correspondence. If this box is checked, attach a copy of all pertinent correspondence, including a copy of any initial proposal which has been adopted by reference in such correspondence.
6. ☐ The agreement or understanding between the registrant and the foreign principal is the result of neither a formal written contract nor an exchange of correspondence between the parties. If this box is checked, give a complete description below of the terms and conditions of the oral agreement or understanding, its duration, the fees and expenses, if any, to be received.
7. Describe fully the nature and method of performance of the above indicated agreement or understanding.
Registrant will provide consulting services regarding U.S. policy relevant to the principal.

8. Describe fully the activities the registrant engages in or proposes to engage in on behalf of the above foreign principal.

Outreach to the U.S. Congress, Administration, and third party groups to provide counsel regarding the principal's political interests.

9. Will the activities on behalf of the above foreign principal include political activities as defined in Section 1(o) of the Act and in the footnote below? Yes ☒ No ☐

If yes, describe all such political activities indicating, among other things, the relations, interests or policies to be influenced together with the means to be employed to achieve this purpose.

Political activities will include outreach and advocacy among members of Congress, the executive branch, and advocacy groups regarding U.S. policy and political developments relevant to the principal.

EXECUTION

In accordance with 28 U.S.C. § 1746, the undersigned swears or affirms under penalty of perjury that he/she has read the information set forth in this Exhibit B to the registration statement and that he/she is familiar with the contents thereof and that such contents are in their entirety true and accurate to the best of his/her knowledge and belief.

Date of Exhibit B	Name and Title	Signature
November 02, 2017	Arthur Collins, Managing Partner	/s/ Arthur R. Collins eSigned

Footnote: "Political activity," as defined in Section 1(o) of the Act, means any activity which the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party.



Consultant Services Agreement (Legal Affairs) - 2016
Page 1 of 20

CONSULTANT SERVICES AGREEMENT

THIS CONSULTANT SERVICES AGREEMENT is made the 29 day of October 2017
(the "Effective Date")

BY AND BETWEEN:

(1)

The Government of Bermuda

Department: The Cabinet Office

Address: 105 Front Street,

Hamilton HM 12, Bermuda

(hereinafter called the "Government") of the one part; and

(2) theGROUP DC, LLC as identified and set out in Schedule A (hereinafter referred to as the "Consultant", "Supplier" or "you") of the other part.

The Government and you are individually referred to as a "party" and collectively as the "parties".

This Agreement consists of this page, Schedule A Statement of Works, the General Terms and Conditions and Appendix 1.

IN WITNESS WHEREOF, the parties, or their authorized representatives, have read and agree to the terms and conditions of this Agreement on the Effective Date.

SIGNED by a duly authorised officer/ representative of the Government	Signature: <u>[Signature]</u> 11/11/17
	Print Name: <u>CHARLE WATTER, AICS</u> For Derrick S. Binns, JP Ph.D.
	Title: Secretary to the Cabinet
SIGNED by the Consultant or a duly authorised officer/representative for and on behalf of the Consultant	Signature: <u>[Signature]</u>
	Print Name: Paul L. Miller III
	Title: Principal



SCHEDULE A

STATEMENT OF WORKS

Capitalized terms used but not defined in this Schedule will have the meanings given to them in the Agreement. If a term in this Schedule conflicts with a term any other part of the Agreement, the provisions of this Schedule will prevail to the extent of such conflict. References in this Schedule to Sections and Appendices will refer to the Sections and Appendices of this Schedule unless otherwise noted. Where the context requires, the words "Consultant" and "Supplier" shall include the word "you" and "your" and singular shall include the plural and vice versa.

1. Consultant Name and Contact Information:

Consultant:	theGROUP DC, LLC
Address:	1730 Pennsylvania Avenue St. NW, Suite 500
	Washington, D.C. 20006, United States of America
Telephone No:	(202) 386-7282
Fax No:	(202) 386-7288
Representative:	Darrel Thompson
Representative	202-386-7282 ext. 118
Tel No:	
Email:	admin@thegroupdc.com

2. Term and Termination

- 2.1 This Agreement shall be effective on the Effective Date. The Services shall commence on the Commencement Date and continue until the Completion Date (or for 12 months from the Effective Date, if no Completion Date stated), whereupon this Agreement shall end and expire unless terminated earlier in accordance with its terms.

Commencement Date:	November 1, 2017
Completion Date:	January 30, 2018
Termination Notice Period:	30 days written notice

- 2.2 In the event that services are provided to the Government beyond the Completion Date of this Agreement, the terms and conditions of this Agreement shall continue on a day-to-day basis terminable without cause upon 24 hours prior written notice by either party to the other.

3. Objectives

- 3.1 The purpose of this Agreement is twofold: 1) for the Consultant to represent the Government in Washington, D.C., and advocate the Government's interests before the United States Congress, the

C.W.



- U.S. Federal Government, and the U.S. financial services industry; and 2) to work with senior Government officials to develop and implement a communications strategy to present issues before key stakeholders mentioned above and the general public.
- 3.2 The primary duties of the Consultant shall be to provide political consulting and lobbying services for the Government of Bermuda in the United States Congress and other relevant organizations in the United States of America.
- 3.3 The Scope of the Services and Deliverables that will be provided by the Consultant to achieve the Objectives above and fulfill the primary duties is out in Appendix 1 of the General Terms and Conditions attached hereto.
- 3.4 You are responsible for ensuring that the Services are performed and completed in accordance with and subject to, the standards in this Schedule, Appendix 1, General Terms and Conditions and other requirements of this Agreement, including any other responsibilities assigned to you.
- 3.5 You are responsible for managing time in order to complete your obligations under this Agreement rather than working a specified amount of time and you recognize that working outside of regular work hours may be necessary in order to fulfil your obligations and responsibilities without additional compensation of any kind.
- 3.6 In the event that there are no specified hours for you to provide Services, you will be required to be available to provide services during the period as set out in Appendix 1 in order to achieve your objectives and the Services, subject to the needs of the Government. When there is no unscheduled or urgent work involved, any provision of Services will be confined to the 5 day work week.
4. **How Services / Deliverables are to be provided**
- 4.1 You will use best industry practices to ensure that the Government's objectives are met.
- 4.2 You and/or the Representative will perform and provide the Services for the Government and the parties agree to abide by any other instructions or information as may be provided by the Government.
- 4.3 Any documents or plans prepared by you for the Government may be used by The Government for any purpose:
- 4.4 **Progress Report:** You shall submit progress reports in connection with the Services ("Reports") on at least a monthly basis, or as otherwise required, to the Government. The Reports shall include a summary of the activities and accomplishments during the previous reporting period. Any decisions and/or actions required of the Government during the upcoming reporting period(s) should be included in the Reports. The specified date for submission of the Reports for the reporting period shall be determined by the Government.



5. Variation in Services

- 5.1 Additional services or variations in the Services may be required after the date of execution of this Agreement and may be performed upon written approval of the Government. Such written approval shall be evidenced by a Project Change Authorization order ("**Change Order**") or such other written authorization as approved by the authorized Public Officer of the Government. In such case, a Change Order shall be issued within a reasonable time thereafter.
- 5.2 All Change Orders are subject to the terms and conditions of this Agreement.
- 5.3 Fees for additional services shall be agreed by the Government in writing prior to any additional services being performed.
- 5.4 Only services which are not required for performance of the Services to be provided hereunder shall be deemed additional services.

6. Warranties and Representations

Consultant represents and warrants that:

- 6.1 It is a corporation duly organized, validly existing and incorporated under the laws of [Delaware in the United States of America].
- 6.2 The execution, delivery and performance of this Agreement has been duly and validly authorized by all necessary action of the Consultant.
- 6.3 All required third party consents to the execution and performance of this Agreement have been obtained.
- 6.4 There is no action, suit or proceeding, at law or in equity or before any court, tribunal or government authority, pending, nor to the best of the Consultant's knowledge, threatened against the Consultant.
- 6.5 Neither the Consultant, its affiliates, subsidiaries, subcontractors, and their respective officers, directors, employees and personal services contractors have within the last 10 years immediately prior to the Effective Date been convicted by a court or tribunal in any jurisdiction of any criminal offence.
- 6.6 It has obtained all necessary consents and permissions to perform the Services.
- 6.7 Where the Services are performed outside of Bermuda, it has complied with all local laws including in this case, the *U.S. Foreign Agents Registration Act*.
- 6.8 The Consultant is competent to carry out all work under this Agreement and achieve the Objectives.



6.9 The signatory below on behalf the Consultant has the authority to bind the Consultant

7. Time of the Essence

8.1 You shall perform the Services expeditiously to meet the requirements of the Government and shall complete any portion or portions of the Services in such order as the Government may require. The Government shall have the right to take possession of and use any completed or partially completed portions of the work notwithstanding any provisions expressed or implied to the contrary. The Government shall give due consideration to all designs, drawings, plans, specifications, reports, tenders, proposals and other information submitted by you or the Representative, and shall make any decisions which are required to be made in connection therewith within a reasonable time so as not to delay the progress of the work.

8. Fee

The Government will compensate you the fee(s) as set out below for the Services during the Term.

All such amounts are to be paid in advance, unless otherwise stated:

Details	Fee
Fees payable.	USD \$ 20,000.00 per month billed on the 1 st of each month, in advance, commencing November 1, 2017 for a total of USD \$60,000.00
Additional Services – To be agreed in accordance with Section 5 of this Schedule.	
Total	USD\$ 60,000.00

You are responsible for any payments of taxes or the like that may be payable or due in the United States.

The Fee may also be subject to deductions for the following reasons:

- a. Where there has been an overpayment to you for any reason;
- b. Where the Department has suffered loss by your failure to follow instructions or exercise due diligence;
- c. If you cause damage to Government property, the value of replacement or repair of the damaged property shall be deducted from the Fee;
- d. If you leave or terminate this Agreement without giving the required notice, the value of the Fee for the notice period may be deducted; and
- e. When you no longer work for the Department, there will be a deduction of any overpayments or advances of payment taken in excess of the Fee.

C W



9. **Insurance**

You shall acquire the Insurance Policies in the amount as set out below, subject to the insurance section of the General Terms and Conditions:

<u>Insurance coverage</u>	<u>Monthly Fee</u>
Professional Indemnity	BMD\$1,000,000

10. **Expenses**

11.1 Any Expenses associated with this Schedule, in addition to the Fees, shall be those Fees and Expenses associated with providing the Services in accordance with this Agreement.

11.2 If applicable, while performing the Services in or from Bermuda, you or the Representative may require accommodation in connection with the provision of Services. In the event that accommodation is required, the Government may assist you or the Representative in acquiring accommodation. You agree to abide by the rules and regulations of the owner of the property where you reside or stay and you shall indemnify the Government against any losses the property owner may suffer as a result of your or the Representative, residing or staying at that property.

11.3 All requested Expenses shall be provided to the Government in writing prior to any such Expenses being incurred. All air travel shall be at economy class, unless otherwise agreed in writing. Neither you nor the Representative are permitted to incur additional expense, costs or charges without the prior written consent of the Government.

11.4 All Expenses may be approved, in advance, in writing, and if approved, shall be paid in accordance with this Agreement.

11.5 In the event that you or the Representative incur costs or expenses that have not been approved in advance, the Government may reimburse you for any expenditures that are reasonable and necessarily incurred in the performance of Services hereunder as determined by the Government in its sole discretion.

11. **Invoicing Terms**

12.1 You shall provide a monthly invoice to the Government contact set forth herein, with supporting documentation and itemizing the following:

- a) Your name, invoice date and invoice number;
- b) Change Order number, if applicable;
- c) Details of Services performed;
- d) Other supporting documentation (including copies of any invoices or receipts for reimbursable expenditures as provided for herein);
- e) The banking institution and full account information for payment by wire transfer (unless such information has previously been provided to the Government); and
- f) Telephone number, fax number and e-mail address.



- 12.2 Invoices must be submitted monthly. Government shall pay all fees and/or undisputed invoices in advance. The Government may dispute an invoice within 90 days of receipt, however, the Government reserves the right to dispute payments made on an invoice at any time if it suspects fraud, willful misconduct, errors, and duplication of work or negligence on your part ("Faults"). In the event that any Faults are discovered in relation to payments made to you, the Government reserves the right to recover such payments from you, at your cost (which shall include all legal and collection fees and expenses) or to set off any disputed amounts against unpaid invoices.
- 12.3 Your failure to timely submit a proper invoice as set forth in this section may result in a delay in payment by Government. No interest shall be paid with regard to any late payment to you or your Representatives resulting from your failure to submit a proper invoice or otherwise comply with the terms of this section. You agree that the Government is not responsible, nor will it be liable to you or under law or equity for any and all expenses that you or your Representative's may incur resulting from any delays in payment caused by your failure to comply with the terms of this Agreement.
- 12.4 Government reserves the right to refuse to pay an invoice in the event that the invoice is presented 6 months after the time when it should have been presented for payment.

12. **Additional Terms**

- 13.1 Services are provided on a **non-exclusive** basis to the Government in Bermuda.
- 13.2 There may be occasions where certain Services may have to be outsourced. You will seek prior permission from the Government prior to outsourcing any service. In the event of any outsourcing, you will be responsible for all outsourced services or personnel.
- 13.3 The following persons have been designated as your Representatives and they will be providing Services to the Government:

Name	Role / Title	Hourly rate (for additional services)
Darrel Thompson	Principal	Not applicable
Art Collins	Managing Partner	Not applicable

- 13.4 You agree to promptly inform the Government should there be any changes to the Representatives.

13. **Independent Contractor**

- 14.1 This is an independent contractor relationship. Consultant and its employees will not be considered employees of the Government for any purpose whatsoever. Neither the Consultant nor its employees are entitled to any of the benefits the Government provides for its employees

14. **Special Terms for Non-Bermudians**

Neither you, nor your dependents, have any right to continue to reside in Bermuda after the termination of this Agreement, except as may be permitted by law, upon expiry or withdrawal of your work permit and by signing and dating this Agreement, you expressly waive all such rights, claims and demands in this respect.



GENERAL TERMS AND CONDITIONS

IN CONSIDERATION of the premises and mutual promises in this Agreement the parties, intending to be legally bound, agree as follows:

That in this Agreement, capitalized terms have the respective meanings referred to in this Agreement, words by their context importing the plural shall include the singular and vice versa, references to either gender includes any other gender or a neutral entity where appropriate, and a reference to any statute or regulation or law means as amended from time to time and include any successor legislation, regulations or laws.

1 Definitions

In this Agreement unless the context otherwise requires, the expressions set forth below have the following meanings in any schedules or annexes hereto:

"Agreement" means this Consultant Services Agreement and includes these General Terms and Conditions, any schedules, appendices or annexes attached in accordance with the obligations or deliverables under this Agreement;

"Appendix 1" contains the objective, instructions or other information related to the provision of the Services not contained in Schedule A;

"Business Days" means Monday to Friday between 9am - 5pm in Bermuda;

"Claims" means any written or oral claims, actions or demands for money or services or for any allegation of a breach in rendering or failure to render any Services performed or which ought to have been performed. Claims also includes patent, trade secret, copyright, or other intellectual property right claims, costs, penalties, fees and expenses (including legal and professional fees, charges or expenses);

"Client" or "Customer" means the Government of Bermuda

"Commencement Date" means the date of the commencement of the Services as set out in Schedule A;

"Completion Date" means the date of the completion of the Services as set out in Schedule A;

"Confidential Information" means any information or data disclosed to you which (i) if in tangible form, is marked clearly as proprietary or confidential, (ii) if oral, is identified as proprietary, confidential, or private on disclosure or (iii) any other information which is not in the public domain, which upon receipt by you or your Representative should reasonably be understood to be confidential, provided, however, that such information or data is provided under or in contemplation of this Agreement;

"Consents" means any qualifications, rights, permits, licenses, authorizations or other consents;

"Consultant Materials" means written advice, documents, or other information provided by you or the Representative related to the Services;

"Deliverable" means anything whether tangible or intangible or any service that is intended to be provided to the Client or Customer

"Expenses" means all reasonable, necessary and substantiated expenses, charges and costs (including all costs, fees, charges, fines and penalties related to travel and accommodation), penalties and fines;

"Fee" means the fees to be paid to you for the Services provided in accordance with the terms of this Agreement;

"Best Industry Practice" means the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector in Bermuda or in England;

"Public Officer" includes any person (other than consultants) employed by, or acting as an agent for, the Government;

"Representative(s)" means, the person(s) providing the Services on your behalf or any person engaged by you, if applicable;



"Services" means the consulting services provided by you or on your behalf in accordance with Appendix 1 and subject to Schedule A;

"in writing" shall mean any fax, letter or purchase order on the Government's letterhead bearing the signature of an authorised person or an e-mail emanating from the personal e-mail address of an authorised person;

"Insurance Policies" means an amount of not less than the minimum level of insurance required by law or regulatory body or that is required to cover for similar services as are provided in this Agreement or the amount as set out in Schedule A, whichever is greater, covering you, or your officers, directors, employees, agents, or subcontractors, professional negligence and errors and omissions, and shall be on an "occurrence" basis. "The Government of Bermuda" shall be endorsed as an additional insured on the required policy or policies and the insurances afforded to the Government of Bermuda shall be primary insurance.

"Outcomes" means the targets, results or goals to be achieved as specified in Schedule A;

"Schedule A" means the schedule which forms a part of this Agreement and contains details of the Fee, Expenses and Term; and

"Term" means the term of this Agreement as set out in Schedule A.

2 Services

- 2.1 You and the Representative agree to perform the Services subject to these General Terms and Conditions, Schedule A and Appendix 1 and the Government agrees to pay the Fee for the Services.
- 2.2 You shall use your best efforts to complete the Services, including providing any Consultant Materials by the Completion Date or by the date as agreed between the parties.
- 2.3 The Government shall inform you of its contact, i.e. whom you or the Representative shall be reporting to and who will accept the Services.

- 2.4 You acknowledge and warrant that you are fully satisfied as to the scope and nature of the Services and of your obligations under this Agreement.

3 Provision of the Services

- 3.1 You represent that you and the Representative, will perform all activities relating to the Services:
 - a) in accordance with Good Industry Practice and in a professional and lawful manner;
 - b) if applicable, using appropriately skilled and experienced personnel whose identity, address and right to live and work in Bermuda and (to the maximum extent permissible) whose absence of relevant criminal records has been verified;
 - c) in strict accordance with the standards and timelines set out in Schedule A; and
 - d) in accordance with applicable law; rules, regulations and policies of the Government.
- 3.2 The Services shall be provided in such place and location as instructed by the Government.
- 3.3 If the Services are required to be provided on the Governments' premises, you and the Representative will comply with all site rules as notified and both you and the Representative will conduct yourselves in a professional and safe manner.
- 3.4 If you have access to Government IT systems, you shall comply with Government IT policies and instructions (including those instructions that relate to security and information controls). The Government may require personnel with access to premises or IT systems to sign a confidentiality undertaking.
- 3.5 You may not subcontract your obligations under this Agreement beyond using the



- Representative, without Government's prior written consent.
- 3.6 You are responsible for all acts or omissions of a Representative relating to the Services and for ensuring their compliance with the requirements of this Agreement.
- 3.7 You will provide information or sign any other agreements necessary or as requested by the Government, in order that either you or the Government can fulfill their obligations under this Agreement.
- 3.8 You acknowledge that the Government will be:
- a) relying on your and the Representative's skills, expertise and experience concerning the provision of the Services;
 - b) relying on the accuracy of all Outcomes and all the information and materials included in your Consultant Materials; and
 - c) using your reports, Outcomes and any other advice and assistance provided under this Agreement.
- 3.9 You have the right to suspend or terminate delivery of Services for non-payment of undisputed invoices upon 30 days' prior written notice delivered to the Government at the address provided herein for notices.
- 3.10 If you or your Representative are unavailable to provide the Services and in the reasonable opinion of the Government, any suggested replacement is not satisfactory to the Government, then the Government may terminate this Agreement.
- 3.11 The Government may request the replacement of a Representative, and agreement with such request shall not be unreasonably withheld. You shall use your best efforts to promptly replace the Representative with another qualified individual employed by you, and such replacement shall be subject to approval by the Government.
- 4 Remedies**
- 4.1 Without prejudice to any other remedies and rights available to the Government, if the Consultant Materials are inaccurate or misleading or the Services are not performed in accordance with this Agreement, then the Government, in its sole discretion, may:
- a) Require correct Consultant Materials;
 - b) require, in whole or in part, the Services to be re-performed during the Term or within 6 months of the Completion Date;
 - c) carry out an assessment of the value of the defective Consultant Materials or Services and deduct that value from amounts that Government is required to pay you; or
 - d) obtain the Consultant Materials or Services from another service provider and you will be required to pay all amounts payable by the Government in obtaining alternative services from another service provider to make good or to deliver defective Consultant Materials or Services.
- 5 Fee**
- 5.1 The Government shall pay you the undisputed Fee within 30 days of receiving a valid invoice setting out information required with the invoice in accordance with Schedule A.
- 5.2 Neither you, nor the Representative, shall be eligible to receive overtime compensation or additional compensation beyond the agreed Fee, in respect of any additional hours worked or required to be worked.
- 5.3 The Government may withhold payment of any Fee or Expenses in respect of which it discovers Faults or has disputes and you will cooperate promptly and fully to



resolve any such Faults or disputes. If the Government is late paying any undisputed Fees, you may charge the Government monthly interest of 1% on any outstanding Fee.

5.4 Except as set out in Schedule A, no other amounts are payable by the Government to you or the Representative. Government may set off any amounts owed by you to the Government against any Fee or Expenses.

5.5 The Government shall pay the applicable fees for the Services by direct transfer into your bank account. It is your responsibility to inform the Government of your current contact details in order that the Government can contact you.

6 Indemnity, Insurance, Force Majeure and Business Continuity

6.1 Indemnity: You shall have liability for and shall indemnify the Government and its Public Officer's against any Claims arising from any breach by you, or the Representative, of the terms of this Agreement, including any negligent act, errors, omission or wilful misconduct to act in the provision of the Services. The Government may satisfy such indemnity (in whole or in part) by way of deduction from any payment due to you.

6.2 You shall defend, indemnify, hold and keep harmless Government from all Claims hereunder; provided that Government provides you with: (a) prompt notice of such Claim; (b) sole control over the defense and/or settlement of such Claim (provided that any settlement requiring any act or omission by Government shall be subject to the Government's consent, not to be unreasonably withheld or delayed); and (c) all assistance reasonably required (at your expense) for the defense of such Claim.

6.3 If the use of a Service is enjoined as a result of a Claim, in addition to the indemnity set

forth above, you shall (at your expense): (i) obtain for the Government the right to use the infringing Service; (ii) modify such Service in a manner that does not infringe any third party intellectual property rights; or (iii) substitute equivalent services that are acceptable to the Client and does not infringe any third party intellectual property rights.

6.4 No Liability: In no event shall the Government or a Public Officer be liable to you for loss, damages or otherwise, including the loss of actual or anticipated profits, use of money, expenditures, investments, forgone opportunities or for the inability to fulfill customer contracts or for any other losses.

6.5 Without limiting the provisions of this Section, Government's maximum aggregate liability, for all Claims in connection with this Agreement or the performance thereof arising during its entire term shall be limited to the Fees paid to you under this Agreement for the 3 month period immediately preceding the date the on which the latest Claim(s) first arose.

6.6 Nothing in this Agreement shall exclude or limit any liability for wrongful use of Confidential Information or Government, fraud, misrepresentation, willful misconduct, negligence, personal injury/death or any liability which cannot be lawfully limited or excluded and you shall accordingly maintain in force during the engagement full and comprehensive Insurance Policies.

6.7 All Claims against the Government must be commenced in court within one (1) year after the cause of action has accrued or the act, omission or event occurred from which the Claim arises, whichever is earlier, without judicial extension of time, or said Claim is barred, time being of the essence.

6.8 Insurance: If required by the Government,



you shall maintain at your sole expense, on a primary basis, and an "occurrence basis", at all times during the Term, the Insurance Policies. The Insurance Policies shall be evidenced by delivery to the Government of certificate(s) of insurance executed by the insurer(s) listing coverages and limits, expiration dates and terms of the policy or policies and all endorsements, and upon request a certified copy of each policy including all endorsements. Failure to provide acceptable proof of insurance as required by the Government shall entitle the Government to either obtain or maintain the Insurance Policies on your behalf at your sole cost and expense, or to terminate this Agreement without prejudice to any other of the Governments rights or remedies in connection with this Agreement.

- 6.9 You shall be responsible for the payment of all deductible amounts on such policy or policies and shall on request supply to the Government copies of such Insurance Policies and evidence that the relevant premiums have been paid.
- 6.10 You shall notify the Government forthwith of any changes to any of the policies, or of any claims or potential claims which have arisen to which the insurer(s) of the above policy or policies may be required to respond.
- 6.11 The policy clause "Other Insurance" or "Excess Insurance" shall not apply to any insurance coverage currently held by The Government of Bermuda, or to the Government of Bermuda's Self-Insured Retentions of whatever nature.
- 6.12 If you subcontract any work under this Agreement, you shall ensure that each subcontractor maintains insurance coverage with policy limits of at least the amounts stated above.
- 6.13 The insurance requirements set forth above do not in any way limit the amount or

scope of your liability under this Agreement. The amounts listed indicate only the minimum amounts of insurance coverage that the Government is willing to accept to help ensure full performance of all terms and conditions of this Agreement.

- 6.14 Force Majeure: Neither of the parties shall be liable for failure or delay to perform obligations under this Agreement to the extent that this delay is caused by flood, fire and other event beyond its reasonable control (not caused by its own act or negligent omission) ("*force majeure*") but each party shall use its best efforts to perform its obligations notwithstanding the *force majeure* event.

- 6.15 Business Continuity: Where applicable, you shall maintain, test and where appropriate implement business continuity procedures to reduce the risk of force majeure impacting the provision of the Services and upon request, provide such evidence to the Government.

7 Non-Solicitation

During the Term and for a period of 12 months after expiration or termination of this Agreement, you shall not solicit (whether directly or indirectly) any employee or consultant of the Government who was involved in the performance or receipt of the Services, unless otherwise agreed to in writing by the Government.

8 Non-Disclosure of Confidentiality Information

- 8.1 You must ensure that all Confidential Information held by you is protected against unauthorized access or use. You acknowledge that the improper use or disclosure of such information could be unlawful.
- 8.2 You will comply with Government's instructions if it has access to personal data as a result of providing the Services.

C.W.



- 8.3 You may disclose information related to this Agreement to its personnel on a 'need to know' basis as required for the performance of the Services, or as required by U.S. law, including but not limited to the Foreign Agents Registration Act. You will keep strictly confidential any other Confidential Information which it learn in the course of the Services and it shall only use such Confidential Information as required for providing the Services (and no other purpose).
- 8.4 A breach or anticipated breach of the confidentiality provisions of this Agreement, will cause a Government irreparable harm and you agree that monetary damages alone may not be an adequate remedy and, accordingly, that the Government will, without prejudice to any other rights or remedies that it may have, be entitled, without proof of special damages and without the necessity of giving an undertaking in damages, to seek an injunction or specific performance together with all other remedies as may be available in law or equity.
- 8.5 If you or anyone acting on your behalf fails to abide by the confidentiality provisions at any time, then such failure shall constitute a material breach of this Agreement and you shall pay the Government the equivalent of the Fee paid to you for a 3 month period as liquidated damages, in addition to any attorney's fees and costs of enforcement. You and the Representative(s) be jointly and severally liable to the Government under this section.
- 9 **Intellectual Property, Copyright and Ownership**
- 9.1 Intellectual Property: You warrant to the Government that you or the Representative have created the Materials for and on behalf of the Government or has obtained a written and valid consent and assignment of all existing and future intellectual property rights in the Materials.
- 9.2 Materials created under this Agreement shall be original works created by the you or the Representative and shall:
- a) not include intellectual property owned by or licensed to a third party except for intellectual property which you have the right to use (including the right to use such intellectual property for the purposes of this Agreement); and
 - b) not subject the Government to any claim for infringement of any intellectual property rights of a third party.
- 9.3 You shall do all things necessary to assign to the Government all existing and future intellectual property rights in the Materials embodying such rights to the fullest extent permitted by law. Insofar as they do not so vest automatically by operation of law or under this Agreement, you shall hold legal title in such rights on trust for the Government.
- 9.4 Copyright: Copyright and other intellectual property in work produced by you in the course of providing the Services to the Government shall belong to Government, which may utilise those deliverables freely (including by adapting, publishing and licensing).
- 9.5 You and the Representative agree that all Materials and other works created in full or in part by you or the Representative may be maintained, changed, modified and/or adapted by the Government without the consent of either you or the Representative. Notwithstanding the foregoing, you and the Government may agree in writing that certain identified and designated intellectual property rights will remain with you.
- 9.6 Government acknowledges that you and



Representative possess knowledge and expertise relating to the subject matter of the Services and Deliverables ("**Consultant Know-How**"), which may include intellectual property rights in certain pre-existing tools and materials used by you in performing the Services. Nothing in this Agreement is intended to transfer to Government any rights in the Consultant Know-How, which shall remain your property. To the extent that any Consultant Know-How is included in any Consultant Materials or Outcomes, you hereby grant to Government a perpetual non-exclusive right and license to use and reproduce the Consultant Know-How to the extent reasonably necessary to exercise Government's rights in the Outcomes.

9.7 Government logo: You may not use Government's name or logo for any publicity or marketing purposes, unless consent for such use is provided in writing.

10 Data and Storage

You will keep the Governments Confidential Information in safe keeping for and on behalf of the Government for at least 6 years unless the Government requests that you transfer all information related to a matter to the Government or to a third party.

11 Term, Termination and Suspension

11.1 The Term of this Agreement shall be as set out in Schedule A.

11.2 Either party may terminate a Service or this Agreement, in part or in whole, during the Term upon prior written notice without cause in accordance with the termination notice period as set out in Schedule A.

11.3 Either party may terminate this Agreement if the other party:

- a) commits a material breach of this Agreement, which is not remedied within 30 days of notice by the other

party informing them of the material breach; or

- b) commits an irremediable breach; or
- c) is subject to a change of control or chooses to discontinue its business; or
- d) if the other party has a lack of funding or becomes or is deemed insolvent; or
- e) if the other party's performance is affected by a *force majeure* event which lasts 7 days or more.

11.4 In the event of termination of this Agreement, all Fees due and payable shall be paid to you.

11.5 Upon termination or expiration of this Agreement, you shall irretrievably delete, as commercially practicable as possible, all Confidential Information, stored in any way using any device or application and all matter derived from such sources which is in your possession, custody or power and provide a signed statement that you have fully complied with your obligations under this section.

11.6 Upon termination or expiration of this Agreement, you shall provide Government with all such assistance as may be reasonably necessary in order to terminate the relationship in a manner which causes the least inconvenience to the Government including assisting with the transfer of data.

11.7 The Government may temporarily suspend the Services hereunder and shall confirm such instruction in writing to you. Upon any such suspension, the Government shall pay all Fees and Expenses up until the time of such suspension of Services. If, following suspension of the Services, there is no resumption within 6 months, this Agreement may be terminated by you, and the Government shall make a payment of all outstanding Fees and Expenses in accordance with this Agreement if such



amounts are due.

- 11.8 The Government may issue a written order to resume the provision of Services within 6 months of suspension in accordance with the terms and conditions of this Agreement.

12 General

- 12.1 Any notice or other communication required to be given under this Agreement shall be duly given or served if it is in writing (for the purposes of this section, a notice shall be deemed to be in writing if it is in the form of a printed or hand-written letter or other document, or in the form of an e-mail message), signed and delivered by hand or sent by prepaid recorded post to the address of the party as first set out above (or such other address as is notified in writing to the other party from time to time); or sent by e-mail to the e-mail address of the party as provided by that party (or such other e-mail address as is notified in writing to the other party from time to time).
- 12.2 This Agreement is effective on the Effective Date. Where this Agreement refers to past or current obligations, this Agreement applies retrospectively from that date. Each of the parties represents that this Agreement is executed by its duly authorized representatives and that it has all required authorizations and capacity to perform its obligations.
- 12.3 This Agreement replaces all prior understandings between the parties relating to the Services and is the complete agreement between the parties. No terms proposed by you (whether in invoices, emails or otherwise) shall apply to the Services or modify this Agreement unless expressly agreed to by Government in writing.
- 12.4 You will be an independent contractor and nothing in this Agreement shall render you an employee, worker, agent or partner of

the Government and you shall not hold yourself out as such.

- 12.5 You may not assign or transfer any rights or delegate your obligations under this Agreement (for example assigning or factoring invoices) without the Government's written consent. Any such transfer by you in breach of this section shall be void and be an irremediable material breach of this Agreement. Government may transfer its rights and obligations under this Agreement.
- 12.6 No one other than a party to this Agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.
- 12.7 Expiry or Termination of this Agreement in any manner shall not release you from any liability or responsibility with respect to any representation or warranty. Sections related to indemnification, limitation of liability, non-disclosure of information and intellectual property shall survive termination of this Agreement.
- 12.8 Waiver of any breach of this Agreement must be in writing to be effective and shall not be a waiver of any subsequent breach, nor shall it be a waiver of the underlying obligation. Should any court determine that any provision of this Agreement is not enforceable, such provision shall be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable.
- ## 13 Governance
- 13.1 You will inform Government promptly of all known or anticipated material problems relevant to the delivery of Services.
- 13.2 You shall be responsible for payment of all taxes (other than those Taxes as defined in Schedule A) associated with the provision of Services, including but not limited to, payroll tax, social insurance and health insurance.



- 13.3 You confirm that all payments to Government, including but not limited to, taxes and social insurance, are current. In the event that any payments are delinquent, the Government may deduct, in part or in full, any payments made to you under this Agreement.
- 13.4 You agree to provide the Government (and, if Government requests in writing, its auditors and competent regulatory authorities) with full information on the provision and delivery of the Services in an open and cooperative way and attend meetings with the Government to discuss the Services and this Agreement. The Government may disclose any information relating to this Agreement to a regulator or auditor.
- 13.5 You declare that you are in possession of all Consents necessary for the provision of Services and you will maintain such Consents at all times while providing Services.
- 13.6 In connection with the Services, you will not, and will not attempt to, bribe, corrupt or offer any improper inducement or bribe to any person at any time.
- 14 Audit**
- 14.1 You shall retain all records pertinent to this Agreement for a period of 3 years following expiry or termination hereof.
- 14.2 You shall establish and maintain books, records, and documents (including electronic storage media) in accordance with Canadian Generally Accepted Accounting Principles and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the Government, including all receipts, invoices, payroll records and/or other documentation used to substantiate requests for payment hereunder. At any time or times before final payment and for 3 years thereafter, the Government may cause your records to be audited by a duly authorized Public Officer. Records required to resolve an audit shall be maintained for a period of not less than 3 years following resolution of the audit or any arbitration or litigation arising hereunder.
- 14.3 Any payment or payment request may be reduced by amounts found by the Government not to constitute allowable costs. In the event that all payments have been made to you by the Government and an overpayment is found, you shall reimburse the Government for such overpayment within thirty (30) days following receipt of written notification thereof.
- 14.4 Duly authorized Public Officers shall have full access to and the right to examine any of the records pertinent to this Agreement at all reasonable times for as long as such records are required to be retained hereunder.
- 14.5 You shall include the aforementioned audit and record keeping requirements in all subcontracts and assignments, if any, made in accordance with this Agreement.
- 15 Security Procedures**
- 15.1 You shall at all times comply with the security rules and procedures as specified by the Government ("Security Procedures"), which may be amended from time to time.
- 15.2 You shall notify your contact of any violations of the Security Procedures promptly following discovery thereof, and in any event, not later than seventy-two (72) hours after discovery. Failure to adhere to the Security Procedures and the requirements of this section may be considered a material breach of this Agreement and may result in termination for default.
- 16 Electronic Communication**



Government may communicate with you by email. The internet is not secure and messages sent by email can be intercepted. You shall use your best efforts to keep your security procedures current and all communications by email secure.

17 Governing law

This Agreement is subject to Bermuda law and you and the Government submit to the exclusive jurisdiction of the Bermuda courts in relation to this Agreement.

18 Dispute Resolution

18.1 Where the parties are unable to resolve a dispute that arises in relation to the interpretation of, or performance of obligations in connection with this Agreement the parties, upon agreement, may submit such dispute for resolution by arbitration. The tribunal shall consist of a sole arbitrator appointed by agreement between the parties or failing such agreement by the Appointments Committee of the Chartered Institute of Arbitrators, Bermuda Branch. The procedure to be followed shall be that as laid down in the Bermuda International Conciliation and Arbitration Act 1993 and the UNCITRAL Arbitration Rules presently in force. The place of arbitration shall be Bermuda and Bermuda law shall apply. The language of the arbitration shall be English.

18.2 The decision and award of the arbitrator shall be delivered within three (3) months of his or her appointment, unless otherwise agreed between the parties, and shall be final and binding on the Parties and enforceable in any court of competent jurisdiction. Nothing in this section prevents or in any way restricts either party from seeking specific performance, injunctive relief or any other form of equitable remedy. The parties shall continue to perform their respective

obligations during the dispute resolution process set out in this section, unless and until this Agreement is terminated in accordance with its terms.

18.3 The costs of the arbitration, including administrative and arbitrators' fees, shall be shared equally by the parties and each party shall bear its own costs and attorneys' and witness' fees incurred in connection with the arbitration unless the arbitrator determines that it is equitable to allocate such costs and fees differently and so orders in rendering judgment.

18.4 In rendering judgment, the arbitrators may not provide for punitive or similar exemplary damages.

18.5 The arbitration proceedings and the decision shall not be made public without the joint consent of the parties and each party shall maintain the confidentiality of such proceedings and decision unless otherwise permitted by the other party, except as otherwise required by applicable law or statutes.



APPENDIX 1

**Specific hours of availability to
provide Services:**

Monday to Friday 9am – 5pm

Services / Deliverables to be provided by Consultant

I: Scope of Services

1. The Consultant will develop and execute strategies to accomplish the objectives set out in Schedule A. To that end the Consultant agrees to do the following:
 - (a) meet with the Premier, Cabinet Members and Senior Government Officials to assess, determine, and prioritize legislative and political priorities for the Government of Bermuda and the U.S. Government (U.S. Congress and Administration);
 - (b) by utilizing the Consultant's lobbying capabilities, the Government of Bermuda will be able to leverage the Consultant's policy expertise and political network in the U.S. Government and the business community.
 - (c) monitor legislative activity that will impact Bermuda's financial services industry..
 - (d) identify non-traditional settings for opportunities of engagement with the U.S. Congress that will range from policy briefings to permissible social setting activities.
 - (e) Cultivate among key stakeholders an interest in the country, and assist in the furtherance of Bermuda's economic growth and diversification agenda through the use of lobbying and public relations services in areas of interest to the country.
2. The Consultant will develop an effective communication strategy to inform stakeholders and constituents of the Government's efforts to protect and promote Bermuda interests. To that end the Consultant will.
 - (a) Work with senior government officials to develop effective message points to communicate to key stakeholders and policy makers in the media, financial services industry and Government.



II. Deliverables

1. For each task identified in "Scope of Services" above, the Consultant will communicate with senior Government officials and other representatives of the Government and:
 - (a) determine and produce an assessment in written report form of any and all pending challenges to Bermuda's financial services industry and general public perception.
 - (b) develop and implement message points and priorities.
 - (c) Convene weekly conference calls with key senior Government officials to assess legislative issues and progress in the United States Congress and communications initiatives relevant to stakeholders.



Consultant Services Agreement (Legal Affairs) - 2016
Page 3 of 20
